

RECEIVED  
CENTRAL FAX CENTER

APR 15 2005

LAW OFFICES OF  
**McGINN & GIBB, PLLC**

A PROFESSIONAL LIMITED LIABILITY COMPANY  
PATENTS, TRADEMARKS, COPYRIGHTS, AND INTELLECTUAL PROPERTY LAW  
8321 OLD COURTHOUSE ROAD, SUITE 200  
VIENNA, VIRGINIA 22182-3817  
TELEPHONE: (703) 761-4100  
FACSIMILE/DATA: (703) 761-2375; 761-2376  
E-MAIL: MCGINNGIBB @ AOL.COM

SEAN M. MCGINN  
PHILLIP E. MILLER†  
FREDERICK E. COOPERRIDER†  
JAMES E. HOWARD†  
JAMES N. DRESSER  
JOHN J. DRESCH  
SCOTT M. TULINO  
J. BRADLEY WRIGHT†  
†MEMBER OF BAR OTHER THAN VA

ANNAPOLIS, MD OFFICE  
FREDERICK W. GIBB, III  
LAWRENCE A. SCOTT†  
PAMELA M. RILEY†

FACSIMILE COVER SHEET

(This cover page + 6 sheets)

TO:

Ex. Nguyen

DATE:

4/15/05

Fax:  
Ph:

(703) 872-9306

FROM:

Frederick E. Cooperrider  
Phone: (703) 761-2377

RE:

S/N 10/060, 398

COMMENTS:

In response to Advisory Action dated 4/12/05,  
please note that pag. 2 of Statement of Substance of Interview  
dated 3/28/05 DOES authorize payment, per attached

This facsimile message and attachments (if any) may contain information that is privileged, confidential, attorney-work product, or otherwise exempt from disclosure under applicable law. This message and any attachment(s) are intended for only the individual or entity named above (or those properly entitled to access the information). If the reader of this transmission is not the intended or an authorized recipient, any unauthorized distribution, dissemination, or copying of this transmission and the attachment(s), if any, is prohibited.

If you have received this transmission in error, please immediately notify McGinn&Gibb, PLLC, at any of the numbers indicated above, or by email.

copy. Please call me at (703) 761-2377 to  
confirm that processing is NOT being held up.  
Frederick Cooperrider  
#30769



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/060,398	02/01/2002	Takao Inoue	PU01-01115	9587
21254	7590	04/12/2005	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			NGUYEN, CHANH DUY	
			ART UNIT	PAPER NUMBER
			2675	

RECEIVED  
APR 13 2005  
FUSI.014  
MCGINN & GIBB, P.C.

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	Application No. 10/060,398	Applicant(s) INOUE, TAKAO	
	Examiner Chanh Nguyen	Art Unit 2675	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1, 2 and 21-26.

Claim(s) objected to: 8-11.

Claim(s) rejected: 6, 7 and 12-20.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

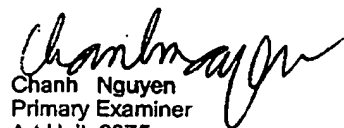
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

  
 Chanh Nguyen  
 Primary Examiner  
 Art Unit: 2675

Continuation Sheet (PTO-303)

Application No. 10/060,398

Continuation of 11. does NOT place the application in condition for allowance because: Examiner indicated claims 1-2, 21-26 are allowed and claim 6 is allowed only if dependent claims 8-9 are incorporated into independent claim 6. Applicant's representative authorized the examiner to make such change in claim 6 by examiner's amendment (see Statement of Substance of Interview faxed by applicant on 03/25/05). However, Applicant's representative does not authorize examiner to charge the time extension fee so that the notice of allowance with examiner's amendment can be sent out. After consulting with examiner's supervisor, Sumati Lefkowitz, the issue "dependent claims be incorporated into the independent claims" is not formal matter as applicant's argument (see statement of substance of interview faxed by applicant on 03/28/05). Applicant's may petition the extension time matter before examiner's amendment and notice of allowance can be sent out.

LAW OFFICES OF  
**McGINN & GIBB, PLLC**

A PROFESSIONAL LIMITED LIABILITY COMPANY  
PATENTS, TRADEMARKS, COPYRIGHTS, AND INTELLECTUAL PROPERTY LAW  
8321 OLD COURTHOUSE ROAD, SUITE 200  
VIENNA, VIRGINIA 22182-3817  
TELEPHONE: (703) 761-4100  
FACSIMILE/DATA: (703) 761-2375; 761-2376  
E-MAIL: MCGINNGIBB @ AOL.COM

SEAN M. MCGINN  
PHILLIP E. MILLER†  
FREDERICK E. COOPERRIDER†  
JAMES E. HOWARD†  
JAMES N. DRESSER  
JOHN J. DRESCH  
SCOTT M. TULINO  
J. BRADLEY WRIGHT†  
†MEMBER OF BAR OTHER THAN VA

ANNAPOLIS, MD OFFICE  
FREDERICK W. GIBB, III  
MOHAMMAD S. RAHMANT  
PAMELA M. RILEY†

March 28, 2005

VIA FACSIMILE  
(Total No. of Pages Transmitted: 3)

To: Examiner C. Nguyen  
Group Art Unit No. 2675

Facsimile No.: (703) 872-9306/746-5792

From: Frederick E. Cooperrider

Facsimile No.: (703) 761-2375 or 76

Re: Statement of Substance of Interview  
U.S. Patent Application Serial No. 10/060,398  
Attorney Docket No. FUJI.014 (PU01-01115)

Examiner Nguyen:

Enclosed is a Statement of Substance of Interview, which we request be made of record, for the telephone interview conducted on March 24, 2005.

Thank you in advance for your kind consideration on this case.

Very truly yours,



Frederick E. Cooperrider  
Registration No. 36,769

FEC/fec  
Enclosure

RECEIVED  
CENTRAL FAX CENTER

APR 15 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Takao INOUE

Serial No.: 10/060,398

Group Art Unit: 2675

Filed: February 1, 2002

Examiner: C. Nguyen

For: LIGHT EMITTING DIODE DRIVING CIRCUIT

Honorable Commissioner of Patents  
Alexandria, VA 22313-1450STATEMENT OF SUBSTANCE OF INTERVIEW

Sir:

In response to the requirement that Applicants place a statement of the substance of an interview in the record, Applicant hereby submits the following.

Applicant's representative received a telephone call from the Examiner on March 23, 2005. The Examiner stated that he was ready to allow the Application if claims 8 and 9 were incorporated into claim 6. Following coordination with the Applicant, Applicant's representative on March 24, 2005, authorized the Examiner to make such changes by Examiner's Amendment.

The Examiner called back requesting authorization to charge the Applicant's representative's deposit number for a time extension fee. Applicant's representative stated that he considered the charge for the time extension fee was not appropriate in this instance under the exception described in MPEP §706.07(I): *"However, an examiner's amendment correcting only formal matters which are identified for the first time after a reply is made to a final Office action would not require any extension fee, since the reply to the final Office action put the application in condition for allowance except for the correction of formal matters, the correction of which had not yet been required by the examiner."*

Serial No. 10/060,398  
Docket No. PU01-01115  
Interview Summary


2

Applicant submits that, in the present instance, the Examiner's requirement that dependent claims be incorporated into the dependent claim is a mere formal matter that was not previously of record by either the newly-appointed Examiner or the previous Examiner.

However, in order to expedite prosecution, the Commissioner is authorized to charge Attorney Deposit Account No. 50-0481 for the appropriate time extension fee. A request for refund potentially will be filed to address the propriety of the charge in the instant case.

Date

3/28/05

  
Frederick E. Cooperrider (Reg. No. 36, 769)

McGinn & Gibb, PLLC  
8321 Old Courthouse Road, Suite 200  
Vienna, VA 22182-3817  
(703) 761-4100  
Customer No. 21254

CERTIFICATION OF TRANSMISSION

I certify that I transmitted via facsimile to (703) 872-9306 this Statement of Substance of Interview to Examiner C. Nguyen on March 28, 2005.



Frederick E. Cooperrider

Reg. No. 36,769